

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PHILLIP GOODWIN,

Plaintiff,

V.

JOHN HAMIL, LIN-MARIE NACHT,
HOLLI CORYELL, ELENA LOPEZ and
BRUCE SHAMULKA.

Defendants.

CASE NO. 17-5183 RJB DWC

ORDER ADOPTING REPORT AND RECOMMENDATION AND RE- REFERRING CASE

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge David W. Christel. Dkt. 27. The Court has considered the Report and Recommendation, objections, and the remaining record.

Plaintiff, a civil detainee housed at the Special Commitment Center, brings this case asserting that his constitutional rights were violated. Dkt. 4. Plaintiff's complaint is not wholly clear. To the extent that Plaintiff asserts tort claims under state law for negligence and medical malpractice, the Defendants move to dismiss those claims because Plaintiff failed to file the requisite tort claim notice before commencing this case. Dkt. 18. The facts and procedural history are in the Report and Recommendation (Dkt. 27) and are adopted here. The Report and Recommendation recommends granting the motion and dismissing the state law torts without prejudice. *Id.*

1 For the reasons stated therein, the Report and Recommendation (Dkt. 27) should be
2 adopted and the Defendants' motion to dismiss (Dkt. 18) granted. Plaintiff's objections (Dkt.
3 29) do not provide a basis to reject the Report and Recommendation. They are a repetition of his
4 prior arguments and misunderstand the nature of the Defendants' motion. Further, although it
5 appears Plaintiff may be dismissing all claims to damages, that is not entirely clear.

6 This matter should be re-referred to Magistrate Judge Christel for further proceedings. In
7 particular, to the extent Plaintiff moves for a temporary stay of the case (Dkt. 29) that motion
8 should be re-referred to Judge Christel.

9 It is **ORDERED** that:

- 10 • The Report and Recommendation (Dkt. 27) **IS ADOPTED**;
- 11 • The Defendants' Motion to Dismiss (Dkt. 18) **IS GRANTED**;
- 12 • To the extent Plaintiff asserts state law claims for negligence or medical
13 malpractice, those claims **ARE DISMISSED WITHOUT PREJUDICE**;
- 14 • The case **IS RE-REFERRED** to Magistrate Judge Christel for further
15 proceedings. In particular, to the extent Plaintiff moves for a temporary stay of
16 the case (Dkt. 29) that motion is re-referred to Judge Christel.

17 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
18 to any party appearing pro se at said party's last known address.

19 Dated this 28th day of August, 2017.

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22 ROBERT J. BRYAN
United States District Judge
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